

ILLINOIS REGISTER

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DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Payment of Taxes by Electronic Funds Transfer
- 2) Code Citation: 86 Ill. Adm. Code 750
- 3) 

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|-------------------------|-------------------------|
| <u>Section Numbers:</u> | <u>Proposed Action:</u> |
| 750.600                 | Amendment               |
| 750.700                 | Amendment               |
| 750.900                 | Amendment               |
- 4) Statutory Authority: 20 ILCS 2505/2505-210
- 5) A Complete Description of the Subjects and Issues Involved: Provides that electronic payments of taxes and fees initiated on or before the due date are deemed timely by the Department of Revenue. Currently electronic payments of taxes or fees must be deposited as collected funds in the Department's account on or before the due date to be deemed timely.
- 6) Will this rulemaking replace an emergency rulemaking currently in effect: No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

Samuel J. Moore  
Associate Counsel  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson  
Springfield, Illinois 62702  
Phone: (217) 782-2844

- 12) Initial Regulatory Flexibility Analysis:

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- A) Types of small businesses, small municipalities and not for profit corporations affected: Any small business, small municipality, or not for profit corporation that makes electronic payment of taxes or fees to the Department of Revenue.
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: July 2005

**Section 750.600 Methods of Electronic Funds Transfer Payment**

- a) There are two primary methods for payment by electronic funds transfer under the program, along with one emergency backup method. These methods are ACH Debit, ACH Credit and Fedwire. Taxpayers may use either the ACH Debit or Credit methods for payment. Taxpayers who are required to pay or voluntarily pay Cigarette Tax or Cigarette Use Tax using EFT must pay their tax liability using an ACH debit payment. Fedwire is only offered as an emergency backup method of payment.
- b) Taxpayers who choose or are required to use the ACH Debit option must use one of the following methods:
  - 1) Place a toll-free call to the Department's data collection service and provide the appropriate account number and required tax payment information. The data collection service will then provide the taxpayer with a unique "confirmation number" to acknowledge the call. ~~The call must be placed by 3:30 pm Central Standard Time at least one day prior to the due date for the payment.~~ The data collection service will initiate the ACH Debit to the taxpayer's account the same day the taxpayer calls the Department, except in the case of ACH warehousing by the data collection service, which will be initiated the working day prior to the due date, and a credit to the Department's account will be made the following day. When a taxpayer chooses this payment option, the Department will provide the taxpayer with a detailed set of technical instructions related to the payment mechanism.
  - 2) ~~ACH Debits initiated via electronic data transfer (modem-to-modem) must be acknowledged as accepted before 12:00 p.m. (Noon — central time) on the last business banking day prior to the due date of the payment.~~

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- ~~2) 3)~~ Taxpayers that are purchasing cigarette tax revenue stamps will not need to place a call to the Department's data collection service. However, a debit authorization form provided by the Department must accompany the purchase order invoice. The Department will then initiate all ACH debits for taxpayers who are required to use EFT when purchasing cigarette tax stamps and who provide the Department with their debit authorization.
- ~~3) 4)~~ Taxpayers who electronically file their tax return may include an ACH Debit record with the transmission.
- c) To use the ACH Credit option, the taxpayer initiates a credit by instructing its bank to transfer the tax due from the taxpayer's account to the Department's account. The taxpayer's bank will then insert a "trace number" into the payment transaction to be used as a payment verification. In addition to the payment amount, taxpayer account posting information is sent with the funds transfer using the TXP convention. This is a standard format developed for use by all states accepting tax payments by means of ACH Credit. A copy of the TXP convention is provided as a portion of the technical instructions provided to taxpayers making payment in this form.
- ~~1)~~ ~~The ACH Credit must be initiated at least one day prior to the due date of the payment so the funds are available on the due date of the payment, or earlier if required by the taxpayer's bank so the funds are available on the due date.~~
- ~~1)2)~~ Before choosing this option on the registration form, a taxpayer should contact its bank to determine what ACH services are offered by the bank.
- ~~2)3)~~ This option is not authorized for taxpayers that purchase cigarette tax stamps.
- d) The Fedwire option for payment is offered by the Department only as a backup method. ~~If for some reason a taxpayer is unable to initiate an ACH Debit or ACH Credit one day prior to the due date of the tax, Fedwire is the only electronic alternative method available to avoid late payment penalties and interest.~~ If this backup method is used, the taxpayer's bank must initiate the Fedwire by noon Central Standard Time on the tax due date.
- 1) Fedwires have costs associated with them for both the initiator and the receiver. A taxpayer using this option will be required to pay the initiator's fee, and the receiver fee will be charged to the Department.
- 2) To effectively credit the payment information to the taxpayer's account, the Department's standard Fedwire format (the Department requires the same data as the TXP convention) information should be entered by taxpayer's bank as part

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of the Fedwire transaction. The taxpayer's bank should provide taxpayer with a paper copy of the transmission for taxpayer's records. A copy of the Department's standard Fedwire format is included in the technical instructions provided all program participants.

- 3) Fedwire is not a routine electronic funds transfer option. If a taxpayer uses this emergency backup option, taxpayer must contact the Department by telephone in advance to provide notification of the emergency situation.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 750.700 Payment Transmission Errors**

- a) If a taxpayer does not make a correct payment of tax for a particular period, such taxpayer shall, on the nearest business day to the date on which the error is discovered, contact the Department's Electronic Funds Transfer EFT unit.
- b) If the taxpayer error involves an underpayment of tax, the taxpayer must make appropriate arrangements to initiate payment for the amount of the underpayment and penalties and interest.
- c) A failure to initiate an electronic funds transfer payment ~~so that it settles~~ on or before the due date because of circumstances under the taxpayer's control, including but not limited to insufficiency of funds in the taxpayer's account or a direct payment to the Department using an unauthorized payment method, may result in either the loss of discount, the imposition of penalties and interest, or both.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 750.900 Due Date; General Provisions**

- a) Taxpayers who are required to remit tax payments through electronic funds transfer and voluntary program participants must initiate the transfer ~~so that the amount due is deposited as collected funds to the Department's account~~ on or before the due date under the appropriate tax Act and request a payment date no later than the due date or, if a payment date of the due date is unavailable, then no later than the next available business day after the due date. For the payment to be deemed timely by the Department, the transfer must be initiated on or before the due date and must result in the amount due being deposited as collected funds to the Department's account, even if that deposit occurs after the due date. Taxpayers should be aware that the provisions of

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Section 1.25 of the Statute on Statutes [5 ILCS 70/1.25] do not apply to payments made by electronic funds transfer as the payments are not transmitted by mail.

- b) The electronic funds transfer method of payment does not change any current filing requirements for tax returns.
- c) In addition to the provisions for reasonable cause for late payment under the applicable tax laws, for electronic funds transfer purposes, reasonable cause for late payment by electronic funds transfer includes the following:
  - 1) The inability to gain access to the EFT system on the required date because of a system failure beyond the reasonable control of the taxpayer. For example:
    - A) In the case of ACH debit transactions, the taxpayer is unable to make telephone contact with the system to provide an instruction to transfer funds from the taxpayer's account, or
    - B) In the case of ACH credit transactions, the taxpayer's bank is unable to gain access to the ACH network to arrange for a deposit of funds with the Department;
  - 2) The failure of the electronic funds transfer system to properly apply a payment.
- d) If a Taxpayer is required to remit a tax payment through electronic funds transfer but instead makes the payment by mail, the provisions of Section 1.25 of the Statute on Statutes [5 ILCS 70/1.25] do not apply to the payment made by mail. In this instance, the amount due must be deposited as collected funds to the Department's account on or before the due date under the appropriate tax Act in order for the payment to be considered timely by the Department.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)